

# Receivership Questions and Answers

## Background

The Department of Health (DOH) and local health jurisdictions are jointly responsible for administering the statewide Drinking Water Program to assure adequate water quality and reliability. DOH tracks water system sample results, conducts technical investigations, and takes enforcement actions such as imposing orders and penalties when necessary. When a water system fails to provide safe and reliable water, DOH uses a variety of tools to return the system to compliance with requirements. These include informal actions such as phone calls, letters, site visits, technical assistance and formal enforcement actions.

Once the point of enforcement is reached, the water system has already exhausted all reasonable justification for not meeting DOH requirements. As a last resort if systems do not respond to informal and formal enforcement actions, the courts may appoint a receiver for the water system .

## Key Points/Questions

Q. - What is a receiver?

A. - A receiver is an entity appointed by the court to manage a water system. Generally, a receivership is intended to be a temporary arrangement until a permanent solution can be found for the water system.

Q. -Who can be a receiver?

A. -Any entity approved by DOH can be recommended to the court for appointment as a receiver. Those willing to act as receivers should contact the Department regarding their desire to be considered in a specific receivership action.

Q. -What does a potential receiver need to know?

A. -A receiver needs to know how to effectively manage water system operation including, but not limited to:

- Coordination of repairs, capital improvements and water quality testing;
- Ability to communicate with customers;
- Working with the Utilities and Transportation Commission (UTC) for rate increases if regulated by UTC;
- Compliance with applicable drinking water requirements; and
- Engineering evaluation to determine needed improvements.

Q. - How does the receivership process get started?

A. - The Assistant Attorney General (AAG) staff and the Drinking Water Division staff make a determination whether or not the public water system is a candidate for receivership. Systems that are placed in receivership usually have a long history of problems. If agreement is reached to proceed with pursuit of receivership, a meeting is held with customers of the system in question. A petition is then prepared by AAG staff which lays out steps the Department wants taken including the name of the receiver recommended for appointment. Once prepared, the petition is filed in either Thurston County Superior Court or the Superior Court of the county in which the system is located.

Q. - How long does it usually take the court to appoint a receiver?

A. - Except in cases of emergency, the court will generally appoint a receiver within one month of the filing of the petition. If the petition alleges an immediate and serious danger to residents constituting an emergency, the court may set a hearing within three days for the appointment of a temporary receiver. If a temporary receiver is appointed, a full hearing will be scheduled within fourteen days of the temporary appointment.

Q. - What powers does a receiver have?

A. -The court can grant a receiver broad powers necessary to operate a water system. Powers generally include, but are not limited to:

- Impose reasonable assessments on water system customers;
- Make necessary improvements;
- Operate and maintain the system in compliance with applicable drinking water requirements;
- Set up an account for receipt of all fees for water service charged to the system customers; and
- Receive reasonable compensation for services and for cost of improvements and operation of the system

Q. -How long is the receiver in control of the water system?

A. -The length of time varies. Within twelve months of appointment, however, a disposition plan for the system needs to be presented to the court.

Q. - How does the court decide final disposition of the system?

A. - DOH working in conjunction with the receiver and local government, submits a disposition plan to the court. The plan will include recommendations of the receiver for the system's future operation and all reasonable and feasible alternatives. The court can then order the parties to implement one or a combination of alternatives for disposition of the system.

Q. -Can the court return the system to the owner(s)?

A. -Yes, but only if the Department approves the action. If the Department approves return of the system to the owner, the court may impose reasonable conditions including, but not limited to:

- Posting of a bond or other security;
- Submitting to routine performance and financial audits;
- Employment or contracting with certified operator;
- Compliance with financial viability requirements; and
- Other measures sufficient to ensure ongoing operation.

Q. - Is there a reality check to ensure that assessments to customers by the receiver are reasonable?

A. - The court grants the receiver broad powers which include reasonable assessments on water system customers. In determining what is reasonable, the receiver is expected to account for all expenditures and be able to justify these to the court. The court in turn can request review by the Department or anyone else with knowledge regarding the reasonableness of the assessment.

Q. - What happens if there are no qualified willing receivers available?

A. - The court appoints the county in which the water system is located as the receiver. It is then up to the county to designate a county agency or contractor to run the system.

More  
Information

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